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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0065; Notice 1]

Columbus Trading-Partners USA, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Columbus Trading-Partners USA, Inc., (CTP), has determined that certain Cybex child restraint systems distributed by CTP do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. CTP filed an original noncompliance report dated June 30, 2022. CTP petitioned NHTSA on July 5, 2022, and amended the petition on August 4, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of CTP's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at https://www.regulations.gov/. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at https://www.regulations.gov by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Kelley Adams-Campos, Safety Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, kelley.adamscampos@dot.gov, (202) 366-7479.

SUPPLEMENTARY INFORMATION:

I. Overview: CTP has determined that certain child restraint systems manufactured under the brand name CYBEX and distributed by CTP do not fully comply with paragraph S5.4.1.2(b)(1) of FMVSS No. 213, *Child Restraint Systems* (49 CFR 571.213). CTP filed an original noncompliance report dated June 30, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. CTP petitioned NHTSA on July 5, 2022, and amended the petition on August 4, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of CTP's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Child Restraint Systems Involved: Approximately 31,080 Aton M, Aton 2, Aton, Aton Q, and Cloud Q model child restraint systems manufactured by CYBEX approximately between June 6, 2017[1], and November 1, 2020, are potentially involved.

III. Rule Requirements: Paragraphs S5.4.1.2(a) and S5.4.1.2(b)(1) of FMVSS No. 213 include the requirements relevant to this petition. The webbing of belts provided with a child restraint system which are used to restrain the child within the system shall, after being subjected to abrasion as specified in S5.1(d) or S5.3(c) of FMVSS No. 209 (§ 571.209), have a breaking strength of not less than 75 percent of the new webbing strength when tested in accordance with

[1] In its June 30, 2022, Part 573 submission, CTP reported production dates between March 7, 2017 and November 1, 2020

S5.1(b) of FMVSS No. 209. ''New webbing'' means webbing that has not been exposed to abrasion, light, or micro-organisms as specified elsewhere in FMVSS No. 213.

IV. Noncompliance: After being subjected to abrasion, the breaking strength of the adjuster webbing on the subject child restraint systems was less than 75 percent of the new webbing strength as required by S5.4.1.2(b)(1) of FMVSS No. 213.

V. Summary of CTP's Petition: CTP explains that the adjuster webbing retained only 56.9 percent of the new webbing strength following the hex bar abrasion test[2] as specified in S5.1(d) of FMVSS No. 209.[3] CTP also acknowledges the noncompliance based on the "through-adjuster"[4] test methodology it employed towards satisfying S5.3(c) of FMVSS No. 209. The views and arguments provided by CTP are presented in this section, "V. Summary of CTP's Petition." They have not been evaluated by the Agency and do not reflect the views of the Agency. CTP describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

After receiving a July 2021 Information Request from NHTSA relating to this noncompliance, CTP, together with its supplier Holmbergs, took certain investigative actions, including reviewing prior test results. CTP learned that Holmbergs did not have any historical test data for the hex bar or its through-adjuster abrasion testing pursuant to FMVSS No. 213 S5.4.1.2(b)(1).[5] CTP retained webbing samples from 2018 central adjuster webbing production that would have been used on the (US) Aton M child restraint systems and conducted testing on them, "pursuant to FMVSS 213, §5.4.1.2(b)(1)." The results from this testing were that the webbing abraded using the hex bar test subceeded the required 75 percent of the new webbing breaking strength, averaging 64 percent, and the webbing abraded using CTP's through-adjuster test exceeded the required 75 percent of the new webbing breaking strength. CTP shared the

[2] OVSC compliance test report available at https://static.nhtsa.gov/odi/ctr/9999/TRTR-647389-2020-001.pdf
[3] In its petition, CTP mistakenly referred to FMVSS No. 209 as FMVSS No. 213
[4] In its petition, CTP refers to S5.3(c) of FMVSS No. 209 *Resistance to buckle abrasion* as through-adjuster test
[5] In section 2 of its petition, CTP mistakenly referred to S5.4.1.2(b)(1) of FMVSS No. 213 as S5.4.2.1(b)(1)

results with NHTSA, submitting that FMVSS No. 213 S5.4.1.2(b)(1) provides two alternative abrasion test compliance options. The first, as provided in FMVSS No. 209 S5.1(d), (hex bar test) and the second, as provided in FMVSS No. 209 S5.3(c), (through-adjuster test). CTP explains that in its investigation, NHTSA concluded that CTP's through-adjuster test methods were not an appropriate interpretation of FMVSS No. 209 S5.3(c). CTP acknowledges the noncompliances with S5.1(d) and S5.3(c) of FMVSS No. 209, and outlines its rationale for why "any noncompliance" is inconsequential to child safety.

CTP believes that the subject noncompliance with the hex bar test is inconsequential to motor vehicle safety based on results from overload dynamic crash tests it conducted on CYBEX Aton M child restraints assembled using abraded adjuster webbing from the samples averaging 64 percent retained breaking strength. CTP asserts that because the adjuster webbing loads in the dynamic tests were only a small fraction (11 percent) of the abraded webbing's retained strength, a significant safety margin is built into the central adjuster webbing making it "sufficient for this application," (Aton M and similar). This difference, CTP explains, shows that significantly more degradation (of webbing strength) could be tolerated. According to internal crash test data collected from tests varying in configuration, ATDs, attachment methods and crash severities, CTP states that the peak central adjuster strap load recorded was 4745 N. CTP also states that the dynamic crash tests of the child restraints with the hex bar abraded webbing showed that structural integrity of the child restraint was maintained and that the occupant was retained.

CTP notes that NHTSA's laboratory test procedure for FMVSS No. 209 Seat Belt Assemblies[6] "specifies that for webbing resistance to abrasion tests performed pursuant to FMVSS §4.2(d), 5.1(d), and 5.3(c) the assembly "***shall*** be subjected to the buckle abrasion test" if the "assembly contain [*sic*] a manual adjusting device" with the emphasis applied, and explains its methodology for the through-adjuster testing it employed. FMVSS No. 209 S5.3(c) *Resistance to buckle abrasion*, requires, CTP states in part, that "[t]he webbing shall be pulled

[6] Dated December 7, 2007

back and forth through the buckle or manual adjusting device as shown schematically in Figure 7…" and "[t]he webbing shall pass through the buckle…" with the emphases applied. CTP contends that the referenced schematic in Figure 7 of Standard No. 209 "should only be viewed as a general visual aid," and that the schematic "contradict[s] the plain language of the FMVSS." CTP states that although the schematic (in Figure 7 of Standard No. 209) does not appear to show the buckle or adjusting device opening and closing, "that action certainly must occur to meet the plain language and clear intent of the regulation." When CTP performed its through-adjuster testing on the 2018 production retained webbing samples, the webbing was cycled through the central adjuster containing a cam lock. CTP states that the cam lock "must be opened during the lengthening stroke" otherwise the adjuster will "not allow webbing to move," i.e., pass through it. CTP investigated a variety of test conditions related to FMVSS No. 209 S5.3(c) "varying the amount and timing of the central adjuster cam opening" in each. CTP believes the through-adjuster abrasion test it used accurately exposes the webbing to the abrading environment that exists in the real-world application. Nonetheless, CTP acknowledges the noncompliance of the central adjuster webbing using its test methodology, submitting it too is inconsequential "as the language of the regulation, as well as the stated purpose of the regulation, should control the test methodology employed."

Holmbergs provided to CTP evidence of its internal procedures and control plans designed to ensure all regulatory requirements are satisfied. CTP's Quality Management System (QMS) requires review and acceptance of Holmbergs' Control Plan prior to supplying the subject webbing to CTP. CTP explains it "relies on its suppliers to self-certify compliance to certain standards and requirements" and that Holmbergs "was following the Aton M US Control Plan" based on CTP's On-going Quality Control (OQC) reports. CTP provided the Control Plan, OQC and other documents in its April 14, 2022, supplemental response to NHTSA.

CTP claims it has implemented replacement central adjuster webbing on new child restraints manufactured beginning October 27, 2021, and that this webbing complies with all

retained tensile strength requirements after having been subject to both hex bar and through-adjuster testing. Additionally, CTP states it has clarified to its webbing supplier that the supplied webbing must comply with both available abrasion tests in its specificiations. Finally, CTP states that since 2017 no central adjuster webbing or central adjuster assembly issues have been observed.

Details of CTP's investigation and testing can be found in its amended petition at https://www.regulations.gov/document/NHTSA-2022-0065-0001.

CTP concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject child restraints that CTP no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve child restraint distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child restraints under their control after CTP notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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Office of Vehicle Safety Compliance.

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